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ABSTRACT

This guide for secondary teachers is designed to identify and illustrate specified illegal practices identified in the Michigan Consumer Protection Act of 1976. The guide also explains procedures that a consumer or law-enforcement agency can take to enforce the provisions of this law. Since the act is a broad one, students learn not only about Michigan law, but also about the specifics of consumer protection laws throughout the country. Therefore, many materials in the guide are appropriate for other areas in the United States. A chart explains specific provisions of the act by outlining prohibited practices, providing generalized examples of the practice, and suggesting classroom activities and resources to aid students understand the practice. For example, one section of the law prohibits representing characteristics, uses, or benefits of goods or services which they do not have. The provision covers the general area of false advertising. Students monitor newspaper, television, and magazine advertisements for possible violations. Other suggested activities include writing letters of complaint, inviting resource speakers, and preparing a local consumer directory. In addition, students examine fraud and deceptive practices, complaints, warranties, contracts, small claims court, and agencies which provide consumer goods and services. Included are a list of other Michigan consumer laws and resources and a copy of the Michigan Consumer Protection Act. (KC)

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CONSUMER EDUCATION TRAINING module

THE MICHIGAN CONSUMER PROTECTION ACT OF 1976

Charles Monsma

SO-011429

MICHIGAN CONSUMER EDUCATION CENTER
COLLEGE OF EDUCATION

Eastern Michigan University
Ypsilanti, Michigan 48197

THE MICHIGAN CONSUMER PROTECTION ACT OF 1976

BY: CHARLES MONSMA

AUGUST, 1977

A TEACHER INSERVICE MODULE FOR SECONDARY LEVEL CONSUMER EDUCATION UNITS IN HOME ECONOMICS, BUSINESS EDUCATION, SOCIAL STUDIES AND RELATED AREAS.

THE AUTHOR

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THE CENTER

The Michigan Consumer Education Center provides professional development and continuing education services to educators through courses, workshops, inservice programs, conferences and publications. The Center maintains a loan library of teaching-learning resources available for preview and evaluation.

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THE MICHIGAN CONSUMER PROTECTION ACT OF 1976

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1. "The Michigan Consumer Protection Act," UAW
2. "Michigan Consumer Protection Act," Michigan Consumers Council
3. Public Act 331 of 1976, "The Michigan Consumer Protection Act"

APPROXIMATE CLASSROOM TEACHING TIME:

5 50-minute class periods

DEFINITION AND SCOPE

Consumer education is the preparation of individuals in the skills, concepts and understandings required for everyday living so they can achieve within the framework of their own values, maximum use and satisfaction of their resources.

Consumer education involves the study of factors affecting consumer behavior, personal financial management, buying and using goods and services, rights and responsibilities of both buyers and sellers, basic economic principles, and sources of consumer information and assistance.

GENERAL GOALS OF CONSUMER EDUCATION

CONSUMER BEHAVIOR

The student will analyze the factors affecting consumer behavior.

Values	Decision Making	Basic Skills
Goals	Advertising	Special Needs
Lifesytles	Career Choice	

FINANCIAL MANAGEMENT

The student will apply basic principles of sound financial management.

Budgets	Bankruptcy	Payroll Deductions
Credit	Tax Forms	Financial Services
Record Keeping	Estate Planning	Savings and Investments
Insurance		

GOODS AND SERVICES

The student will demonstrate knowledge and skills in buying and using goods and services.

Food	Transportation	Health
Clothing	Education	Professional Services
Housing	Recreation	

RIGHTS AND RESPONSIBILITIES

The student will analyze the interrelated rights and responsibilities of consumers, business and government.

Consumer Laws	Complaint Methods	Consumer Representation
Legal Rights	Environment	Current Issues
Energy	Product Safety	

ECONOMICS

The student will relate economic principles to the functions of the marketplace.

U. S. Economic System	Profits and Price
World Economic Systems	Supply and Demand
Government Regulation	Taxation
Inflation and Recession	Unemployment

INFORMATION AND ASSISTANCE

The student will evaluate sources of consumer information and assistance.

Federal Agencies	Private Organizations
State and Local Agencies	Information Evaluation
Community Services	

The objectives of this module relate to one or more of the general goals of consumer education.

RATIONALE AND OVERVIEW

The rights and responsibilities of consumers are important elements of most consumer education classes. Consumer protection laws, governmental agencies which aid the consumer, and a discussion of appropriate complaint procedures are among the topics generally considered under these headings.

Students should be aware of both their rights and their obligations in the marketplace. The aim of this module is to use the new Michigan Consumer Protection Act of 1976 as a tool for illustrating specific points about Michigan law and related basic lessons about consumer protection concepts generally.

This narrow focus is appropriate because the act is a very broad one, incorporating many elements of existing state and federal consumer protection law into its provisions. Learning about the act teaches students not only about Michigan, but also about the specifics of consumer protection law throughout the country. The dividing line between Michigan law and that of other states or of the nation as a whole is thus impossible to draw distinctly and many of the materials presented here, though focusing on Michigan law, are appropriate in other areas as well.

The Michigan Consumer Protection Act of 1976 is also a broad law in functional terms, covering a wide range of activities with which the educated consumer should be familiar. Laws, of course, can provide adequate remedies for dealing with consumer-merchant disputes and providing legal recourse to aggrieved parties, but it must be remembered that prevention of loss or conflict is more important than cure of situations which have already gone bad. Teaching legal provisions is a good method for arming both consumers and merchants so that they can prevent disputes from arising.

The student should not only know "what to do when you feel that you have been gypped" but more importantly, "how to avoid getting gypped in the first place." As such this module could be an important element in a consumer education course, rather than simply a narrow look at one particular law.

MODULE GOAL

The student will demonstrate skills in the application of the provisions of the Michigan Consumer Protection Act.

MODULE OBJECTIVES

The student will:

1. Identify and illustrate a specified number of practices that are made illegal under the Michigan Consumer Protection Act.
2. Explain the procedures that a consumer or a law enforcement agency can take to enforce the provisions of the Michigan Consumer Protection Act; and specify the remedies available under the Act.

RELATED PERFORMANCE OBJECTIVES

The following are selected performance objectives which relate to consumer law, political issues and government services. They are taken from the current working draft of performance objectives in consumer-economics education being developed by the Michigan Department of Education. Although written in general terms, they are applicable to units which focus on consumer law and politics in the state of Michigan. The activities described later in this module should contribute directly to the attainment of these performance objectives, although the material will not be organized along these lines, but rather on some narrower goals and objectives related to the Michigan Consumer Protection Act.

Related performance objectives from the Michigan Department of Education draft:

23. Fraud and Deceptive Practices

Given a list of cases involving fraudulent or deceptive practices, the student will identify the basic elements of each.

26. Complaints

Given a case study involving a consumer complaint, the student will demonstrate effective complaint handling techniques by filing a complaint including:

a) determining the remedy desired
b) compiling the facts and/or documentation needed
c) presenting the complaint and desired remedy to the business
d) contacting the manufacturer, if appropriate
e) selecting the appropriate agency and/or person to assist in mediating the complaint.

28. Warranties

Based on a study of required warranty disclosures, the student will evaluate the importance of the warranty in a given purchase situation.

29. Contracts

Given samples of various kinds of contracts, the student will:

a) explain the legal obligations of each party involved
b) identify conditions under which a contract is invalid
c) identify the factors to consider before signing a legal agreement.

30. Laws

Given selected current federal and state consumer protection laws, the student will describe:

a) general provisions of the law
b) effect of each law on the consumer.

31. Small Claims Court

Given a legal problem, the student will:

a) determine if the problem is within the jurisdiction of the small claims court
b) describe the procedure for filing a claim in a small claims court
c) describe the limitations of the small claims court.

44. Agencies and Services

Given a variety of situations involving individual needs or desires, the student will identify federal, state, and local agencies and organizations which will provide consumer goods and services.

PRE-TEST ON THE MICHIGAN CONSUMER PROTECTION ACT OF 1976

The following test may be used as a pre-test for a unit on consumer law, but should perhaps be seen as a discussion starter or as introducing examples which can be explained in the following lessons, rather than as an exemption pre-test. Knowing general examples of what is technically legal or illegal is just one part of what students should learn in a unit on consumer protection law. The test certainly does not cover all the objectives of the unit.

The test items are all based on provisions in the Michigan Consumer Protection Act of 1976. Remember that these answers are based on general examples related to the intent of the law, rather than on specific cases.

Many of the deceptive practices covered are also made illegal under previous state and/or federal statutes.

KEY

1. False
2. True
3. True
4. False
5. False
6. True
7. True
8. True
9. False
10. False
11. False
12. False
13. False
14. True
15. True
16. False
17. False
18. True
19. False
20. False

MICHIGAN CONSUMER LAW TEST

(True-False -- circle the correct answer)

T F 1. It is legal for a California winery to label their product "French wine."

T F 2. It is not legal to claim that a product "saves more energy" than its competitors, when this claim is unsubstantiated.

T F 3. The implied warranty on products does not apply to products which are clearly labeled "sold as is."

T F 4. It is legal for a door-to-door sales firm to refuse to return a deposit even though the consumer cancelled the contract within three days.

T F 5. A contract, written in English and signed by a Spanish-speaking consumer is legally binding even though it has been inaccurately explained by a salesperson.

T F 6. It is not legal to have a "going out of business sale" when the merchant has no intention of going out of business.

T F 7. It is legal to engage in advertising "puffery" if the exaggeration is obvious sales rhetoric which will not be misleading to potential customers.

T F 8. It is not legal for a vocational school to make exaggerated claims about the immediate earning potential of its graduates.

T F 9. A children's commercial which exaggerates the things which can be done with a mechanical toy is legal.

T F 10. A sales ticket labeled "regular price $100, now only $75" is legal even though the product has never been sold at the higher price.

T F 11. It is legal for an appliance dealer to widely advertise a cheap freezer when his real intent is to sell higher priced models to persons who inquire about the cheaper one.

T F 12. It is legal for an appliance dealer to widely advertise a sale on a freezer when he only has three in stock.

T F 13. Extreme high pressure sales tactics, while they may be uncomfortable, are clearly legal. (For example, a salesman refuses to leave a customer until a contract is signed.)

T F 14. It is not legal to sell a cemetery lot without revealing the fact that there is a $50 yearly maintenance fee.

T F 15. It is not legal to send merchandise to the family of a deceased person, claiming that the deceased had ordered it.

T F 16. It is <u>legal</u> for a gas station to charge a customer whose car has run out of gas, $20 per gallon when there are no other gas stations for 50 miles.

T F 17. It is <u>legal</u> for a regular profit-making corporation to name itself "Handicapped Enterprises."

T F 18. It is <u>not legal</u> to sell a reconditioned sewing machine as "new."

T F 19. It is <u>legal</u> for a salesperson to promise you a rebate on a product if other customers whom you recommend also purchase the product.

T F 20. It is <u>legal</u> to send consumers a "free gift offer," even though when they come in they find out they must make a purchase in order to claim their free gift.

Objective 1.

Identify and illustrate a specified number of practices that are made illegal under the Michigan Consumer Protection Act.

INTRODUCTION TO THE MICHIGAN CONSUMER PROTECTION ACT

Note: In using this section, consider the following:

-- The examples cited in this classroom teaching tool are meant to show the intent of the law, but each actual case is subject to judicial interpretation, so outcomes may be different from case to case.

-- The law went into effect on April 1, 1977 and as of the writing of this module, the courts had not yet begun to determine the exact coverages of the law.

Given the above *caveats*, the Michigan Consumer Protection Act is a broad law and it specifically prohibits a wide range of business practices which might mislead the consumer.

The following content section outlines some of the basic provisions of the act and gives activity suggestions and resources in parallel columns.

DEFINITIONS

[This page contains optional material for use in courses dealing specifically with concepts of law and legal processes. These definitions, while not too meaningful in a practical sense, can be used to show why courts are necessary to interpret and apply the law.]

CONTENT	RESOURCES AND ACTIVITIES
Three categories of conduct are specifically defined as illegal under the act; that is, practices which are 1) unfair, 2) deceptive and/or 3) unconscionable.	
Definitions:	These definitions are reproduced on an overhead master for classroom use in discussions. (see page 13)
Unfair conduct -- Is any behavior that goes beyond the basic concept of what is right and just.	
Deceptive conduct -- Is any behavior that leads the consumer to believe something is one way when it is another. It is failure to reveal important facts about a product or service.	Give examples (case studies) and have students discuss whether particular practices would be illegal under the law. Focus on ambiguous words from the definitions and apply them to different circumstances. See if students always agree on what is "fair." If they do not, this illustrates why, when persons disagree, the courts must decide what is fair and whether the law was broken.
Unconscionable conduct -- Is any behavior that goes beyond unfairness and deception. It is conduct that offends the conscience by taking advantage of another's disadvantage.	
Note that these definitions are general rather than specific and their application to any actual practice or to any particular case must be determined by the courts. Many of the terms in the definitions are ambiguous (e.g. "fair and just," "important facts," "offends the conscience") and may be applied differently by different persons; that is, people may have differing views of whether a particular practice is "fair."	

CONTENT	RESOURCES AND ACTIVITIES
The job of the courts in this situation has two aspects. They must: -- "interpret the law," that is, decide whether a particular practice is indeed "unfair." -- "apply the law," that is, decide whether the person charged actually committed this "unfair" act.	

DEFINITIONS

UNFAIR CONDUCT..... IS ANY BEHAVIOR THAT GOES BEYOND THE BASIC CONCEPT OF WHAT IS RIGHT AND JUST.

DECEPTIVE CONDUCT..... IS ANY BEHAVIOR THAT LEADS THE CONSUMER TO BELIEVE SOMETHING IS ONE WAY WHEN IT IS ANOTHER. IT IS FAILURE TO REVEAL IMPORTANT FACTS ABOUT A PRODUCT OR SERVICE.

UNCONSCIONABLE CONDUCT.. IS ANY BEHAVIOR THAT GOES BEYOND UNFAIRNESS AND DECEPTION. IT IS CONDUCT THAT OFFENDS THE CONSCIENCE BY TAKING ADVANTAGE OF ANOTHER'S DISADVANTAGE.

CONTENT OF THE ACT

(Examples from the 29 practices specifically prohibited by the Act)

NOTES

The Act was written to cover practices seen as unfair, deceptive or unconscionable. To further explain what was meant by these terms, the Act specified 29 types of conduct which are to be considered illegal. This section will detail some of these practices and certain classroom activities which could be based on them.

In discussing the specific provisions of the Act, it would be good, if possible, to provide each student with a summary of the Act. Two such summaries and a copy of the Act itself are included in this module, along with the addresses for obtaining multiple copies of these pamphlets.

RESOURCES

"Suggested Classroom Activities" (pp. 31-33)

(Most of these ideas could be applied to many provisions of the Act; the ones specifically mentioned below are merely examples.)

"Michigan Consumer Protection Act"
Michigan Consumers Council
414 Hollister Building
Lansing, Michigan 48933
(517) 373-0947

"The Michigan Consumer Protection Act"
UAW Consumer Affairs Department
8000 East Jefferson Avenue
Detroit, Michigan 48214
(313) 926-5357

No. 331, Public Act of 1976
(Senate Bill No. 1, 1976)
The Michigan Consumer Protection Act
Available through any state legislator or from the Legislative Service Bureau
State Capitol
Lansing, Michigan 48901
(517) 373-0175

SPECIFIC PROVISIONS OF THE ACT

PROHIBITED PRACTICES (not using statutory language, but citing relevant sections of the Act)	GENERALIZED EXAMPLES (Test referred to is Michigan Consumer Law Test, included in this module)	SUGGESTED CLASSROOM ACTIVITIES/RESOURCES
Section C.		
Representing that goods or services have (among other things) characteristics, uses, or benefits which they do not have.	This provision covers the general area of false advertising. e.g. Test questions 7, 8, and 9. The key question is whether or not the advertisement is "misleading," are consumers likely to act on an exaggerated claim based on the ad in question. Watch for claims of safety and health: (e.g. -- -- "diet" bread which contained no fewer calories but was merely sliced thinner was ruled against by FTC.	Have students monitor advertising to find examples of possible violations. -- newspaper, TV, radio, magazine ads. -- visual ads in shopping areas. Have class discuss: -- legality of ad in question. -- appropriate action. Look also for positive examples of useful information presented to consumers in ads.

PROHIBITED PRACTICES	GENERALIZED EXAMPLES	SUGGESTED CLASSROOM ACTIVITIES/RESOURCES
	-- Sale of "fire alarm systems" which play on fear of homeowners, are currently widespread, especially in low income areas.	
	-- Watch for claims of "energy savings;" such claims must be substantiated. (e.g. Test question #2.)	See local newspapers on or about May 4, 1977 which contained AP and UPI dispatches describing FTC warning about home repair and insulation frauds expected as a result of President Carter's national energy saving program.
Related questions concern:		
Section B. Midleading about <u>geographic origin</u>	e.g. --	Class questions:
	-- Test question #1 (French Wine must really be from France)	Must "Swiss watch" be from Switzerland? Probably yes. The label implies that it is made there, a source of high quality watches.
	-- FTC ruled against calling a firm the "Grand Rapids Furniture Co." because it was located in North Carolina	On the other hand, must "Swiss Cheese" be from Switzerland? No. This is simply a "type" of cheese. Illustrates why courts must rule on individual cases, based on whether the label is likely to be misleading or not.

PROHIBITED PRACTICES	GENERALIZED EXAMPLES	SUGGESTED CLASSROOM ACTIVITIES/RESOURCES
and Section A. Misleading about approval or sponsorship	e.g. -- -- Test question #17 (Profit-making corporation named "Handicapped Enterprises" makes public think they are aiding a charity.)	
Another related area is Section L - Misleading the consumer about needing home product or repair to protect the safety of the family.	-- The classic Michigan case is the furnace repair example, where consumer is informed that repair or replacement is immediately needed, when in fact it is not.	These sections are good for skits or roleplaying exercises. -- Have students play roles of repairman and consumer. -- Could set up roleplayers ahead of time to illustrate smart consumer or unprepared consumer (little old lady with furnace salesman; man who knows little about cars with repairman) -- Have rest of class respond to how roles were played -- what was done right and what should have been handled differently.
The above Section (L) is really included in Section J, making it illegal to represent that any repair service or part is needed when it is not.	e.g. -- -- TV, auto, appliance repairs are probably the most common examples.	This roleplaying should be used to illustrate the "prevention" aspects of consumer protection: 1) be as knowledgeable and informed as possible; 2) where possible, get more than one evaluation and estimate; 3) have replaced parts returned to you for independent examination; and 4) attempt to find and deal with those you know you can trust.

PROHIBITED PRACTICES	GENERALIZED EXAMPLES	SUGGESTED CLASSROOM ACTIVITIES/RESOURCES
Section G. "Bait and Switch" Makes it illegal to advertise goods or services with no intent to sell them as advertised (i.e., generally hoping to get "baited" customer to "switch" to a higher priced product).	This practice is carried out with a wide range of products and services in the state. According to Edwin Bladen, Head of the Consumer Protection Division of the Attorney General's Office, "there is a surprising amount of bait and switch going on in Michigan." Test question #11.	Have students respond to a detailed case study, (involving, for example, a single career girl buying her first sewing machine or a couple responding to an ad for "hind quarter of beef at 59¢ per pound"). Students should know: 1) How to respond to merchant if confronted with bait and switch. 2) Minimum needs in regard to product. Ask what features are necessary to meet personal needs, i.e. Will cheaper product meet my needs, or do I need more? 3) If not, comparison shop before purchasing higher priced model. 4) If blatant violation, report to appropriate authority.
Section I. False statements about price reductions.	Test question #10. Deceptive preticketing (where slashed price never applied). Test question #6. Phoney "going out of business" or "fire" sale.	Bring in resource person from prosecuting attorney's staff, who could discuss examples of legal and illegal practices, and of the type of information which would be necessary to prove compliance or non-compliance with the law (information such as past store records, advertisements, prices in other stores, etc.).

PROHIBITED PRACTICES	GENERALIZED EXAMPLES	SUGGESTED CLASSROOM ACTIVITIES/RESOURCES
Section K. Unordered merchandise.	Test question #15. This tactic is often used on the families of deceased persons. The general rule on unordered merchandise now is that the customer is under no obligation to pay for it or return it.	Tatum O'Neal used this tactic in Paper Moon. Perhaps this scene could be read or acted out. Many students may have seen it in the theatre or on TV. Attempting to get billing stopped on unordered merchandise is one of many good examples of where complaint letters can be used. Teach proper techniques and pertinant information to be included in such letters.
Sections S, BB and CC. The failure to reveal facts which the customer should be told. (These are somewhat overlapping provisions which contain the backbone of the law in regard to deception.)	Test question #14, on unrevealed maintenance fees on cemetery lots. A contractor who makes superficial repairs on a home, hiding substantial defects (e.g. using floor covering, wallpaper or plumbing pipes to cover rotting floors, crumbling walls or major water leaks.) This is a potential problem especially in low income areas.	Show how the protections of the law relate to the content areas of consumer education, such as home buying. Have a real estate person or related expert in class to develop checklist of what to look for in checking for defects in housing. Have local prosecutor or consumer official identify deceptions most often practiced in the area. Field trip to prosecutor's office to see how deceptive practices are policed and prosecuted.

PROHIBITED PRACTICES	GENERALIZED EXAMPLES	SUGGESTED CLASSROOM ACTIVITIES/RESOURCES
Section AA. High pressure sales tactics. (This is a provision which is unique to Michigan law; there are not precedents in FTC or other state law. It will be interesting to see what kinds of practices are outlawed by the courts.)	Test question #13. Certain products and businesses are particularly notorious for use of high pressure tactics (in-home sales, used cars, many types of contract sales, etc.)	Students who may be interested in the study of law could monitor and research the implementation of this (and other) sections of the Act. For example, get information from prosecutors or the attorney general on what types of complaints and cases are most common; check newspaper reports and get copies of actual court decisions related to the Act.
Section X. Unconscionability -- taking advantage of another's disadvantage or handicap.	Test question #5. Could potentially be used to protect foreign born who do not know English, aged, illiterate or other disadvantaged persons from exploitation.	Discuss or develop skits illustrating the protections of the law and leading to an understanding of the vulnerability of some persons.
Sections N and O. Misleading consumers as to their legal rights and responsibilities in credit or other contractual transactions.	These sections attempt to put recent federal credit practices acts under state law, e.g. Fair Credit Practices Act, Truth-in-Lending, Fair Billing Practices Act.	This is a good place to emphasize the important point that, while the law is there to prevent deceptive practices and provide remedies to consumers who may have been misled, the consumers should be educated so they can keep themselves from being misled or signing a faulty contract in the first place. See the overhead master "Consumers Protect Yourselves" included in the module. (page 22)

CONSUMERS, PROTECT YOURSELVES

(THE LAW HELPS THOSE WHO HELP THEMSELVES)

1. LEARN AS MUCH AS YOU CAN ABOUT MICHIGAN'S CONSUMER PROTECTION ACT. REPORT POSSIBLE UNFAIR OR DECEPTIVE PRACTICES TO YOUR COUNTY PROSECUTING ATTORNEY.

2. DON'T SIGN ANY CONTRACT, ORDER OR RECEIPT WITHOUT STUDYING IT AND BEING SURE ALL BLANK SPACES ARE FILLED IN.

3. TAKE YOUR TIME. DON'T LET A SALESMAN HIGH-PRESSURE YOU INTO BUYING.

4. ALWAYS GET A GUARANTEE IN WRITING. BE SURE IT'S CLEAR ABOUT WHAT'S BEING GUARANTEED -- AND BY WHOM AND FOR HOW LONG.

5. ALWAYS SHOP AROUND FOR CREDIT, AND LOOK FOR THE TRUTH-IN-LENDING INFORMATION ABOUT REAL FINANCE CHARGES AND COSTS WHEN YOU READ AN INSTALLMENT CONTRACT.

6. MAKE A HABIT OF EXAMINING THE PRODUCT CAREFULLY BEFORE YOU BUY IT. IF POSSIBLE, TRY IT OUT TO BE SURE THAT IT WORKS PROPERLY . . . IS WELL MADE . . . FITS WELL.

7. BE WARY OF WORDS AND PROMISES THAT MAY BE WARNING SIGNALS OF POSSIBLE FRAUDS. STOP AND THINK BEFORE YOU BUY.

8. BEFORE YOU BUY A "BARGAIN," SHOP AROUND TO SEE WHAT IT SELLS FOR AT OTHER STORES.

ADAPTED FROM MATERIALS PREPARED BY MAGGIE QUINN, HOME ECONOMICS TEACHER, LIVONIA HIGH SCHOOL.

PROHIBITED PRACTICES	GENERALIZED EXAMPLES	SUGGESTED CLASSROOM ACTIVITIES/RESOURCES
Other sections of the Act (briefly)		
Section D. Used (reconditioned, demonstrator) products sold as new.	Test question #18.	(Many of the activities suggested above could be used to convey understanding of these sections as well.)
Section E. Misrepresenting quality.	Would putting Chevrolet engines in other General Motors' cars apply here? Possibly.	
Section F. Falsely "disparaging the goods, services, business, or reputation of another."	Should make merchants careful what they say about their competition or about products they use as bait in the "bait and switch" tactic.	
Section H. Must have enough of a sale item on hand to meet "reasonable expectable public demand" or else disclose a "limitation of quantity."	Test question #12.	
Section M. Misrepresenting the authority of a salesperson.	Auto dealer technique of having salesman "make a deal" only to say later that the deal had not been approved by the manager, so the contract must be for a few hundred dollars more than originally agreed on.	

PROHIBITED PRACTICES	GENERALIZED EXAMPLES	SUGGESTED CLASSROOM ACTIVITIES/RESOURCES
Section P. Disclaimer of the "implied warranty" must be clear and conspicuous in order to be effective.	Test question #3. Label "sold as is" may serve as waiver of implied warranty. On the other hand, even a contract which says "no cancellation or refunds" may be cancelled if the goods do not conform to the contract.	Previous laws have established the concept of "implied warranty." It means that when a product is sold in the market, it is supposed to be free from defects which keep it from performing according to reasonable standards.
Section T. The same "consumer consent" must be present in regard to the waiver of any consumer rights.	e.g. Consumer may waive his right to cancel a transaction, but this must be clearly stated. Note that under previous law, some rights cannot legally be waived, such as the right to cancel an out-of-state land sales transaction within five days.	
Section Q. Deception about delivery of goods or services within a reasonable time.		
Section R. Misuse of the term "free."	Test question #20.	
Section U. Refusal to appropriately refund deposits.	Test question #4.	See "In-Home Sales" pamphlet from Michigan Attorney General's Office.
Section V. Getting consumer to sign statement of delivery or compliance with law, when merchant knows the statement to be false.	e.g. Driver of truck from an appliance store gets signature of delivery from consumer, when he knows that the goods were damaged in transit.	

NOTE ON EXEMPTIONS TO THE ACT

There is an exemption in the act for certain activities covered in other regulatory statutes (e.g. insurance, banks, public utilities, motor carriers and certain health organizations). This exemption, however, is limited and does not exempt these industries from the impact of the law. The prohibited practices are still illegal -- either under the regulations governing that industry, or if not covered there, under the Consumer Protection Act.

Consumers, perhaps, should not worry about these distinctions, but take any questions to the prosecutor's office, where they can decide the appropriate agency to deal with the information.

An exemption also exists for media which merely transmit a misrepresentation which would be covered by the Act. Thus, newspapers, magazines, radio and television stations would not be liable under the Act unless it can be proved that they actually knew or should reasonably have known of the deception in a advertisement which they carried (for example, if they were involved in the preparation of the ad) or if they had a direct financial interest in the sale of the advertised product.

Objective 2.

Explain the procedures that a consumer or a law enforcement agency can take to enforce the provisions of the Michigan Consumer Protection Act; and specify the remedies available under the Act.

ENFORCEMENT OF THE ACT

(See also UAW pamphlet, "The Michigan Consumer Protection Act.")

Under the Act, action may be taken either by public law enforcement agencies (the Attorney General of the state or the Prosecuting Attorney of the county) or by private individuals.

Potential violations should be reported to the county prosecuting attorney who must forward the complaint to the attorney general. Either the attorney general or the county prosecutor may investigate and take action against persons or businesses thought to be violating the Act. If the court finds that the law has been violated, it can stop the practice by granting an injunction against it and a fine can be levied against the violator.

A class action suit could also be filed, which would allow the court to reimburse all those who have suffered actual damages and to take other appropriate actions.

If a violation of the law is proved, legal action taken by individuals may result in:

-- the issuing of an injunction to stop a practice declared illegal under the act.

-- recovery of actual losses (or $250, whichever is greater) resulting from violation of act, plus attorney's fees. (Remember that Small Claims Court may be used for claims under $300 and without the use

of an attorney. See Michigan Consumers Council pamphlet "How to Sue Someone in Small Claims Court.")

-- release from the obligations of a contract, if a business is shown to have violated the act and not met the obligations of the contract.

-- class action remedies (as can be received under prosecuting attorney or Attorney General's action). It should be noted that it is often hard, because of the legal technicalities involved, to get courts to accept class action suits.

The enforcement aspect could be explained to students by a representative from the local prosecutor's office or other informed guest. (See "Suggested Classroom Activities, p. 31)

The student should know:

-- that action can be taken either through individual action (with a private attorney or through Small Claims Court) or by official government prosecutors.

-- procedures which should be followed and supportive evidence which should be provided.

-- actions which can be taken and remedies which can be granted under the Act.

-- how to contact appropriate authorities.

Name, address and phone number of the county prosecuting attorney's office. Many of them have a Consumer Protection Division or a Consumer Action Center with a specific person in charge and a

separate phone number. Students should become aware of the arrangements made for handling consumer matters at the local prosecutor's office.

The situation is continually changing in various counties due to budgetary decisions, but at present the following consumer units exist in county prosecutor's offices:

Bay County Prosecuting Attorney
Consumer Protection Unit
Bay County Building
Bay City, Michigan 48706
phone: 517/893-3594

Genesee County Prosecuting Attorney
Consumer Fraud Division
100 Courthouse
Flint, Michigan 48502
phone: 313/766-8890

Ingham County Prosecutor's Office
Consumer and Business Affairs Division
900 American Bank and Trust Building
Lansing, Michigan 48933
phone: 517/482-1517

Kent County Prosecutor's Office
416 Hall of Justice
Grand Rapids, Michigan 49502
phone: 616/774-3577

Lapeer County Prosecutor's Office
Consumer Protection Division
350 North Court Street
Lapeer, Michigan 48446
phone: 313/664-4561

Macomb County Prosecutor's Office
Consumer Protection Division
40 North Gratiot
Mount Clemens, Michigan 48043
phone: 313/469-5350

Muskegon County Prosecutor's Office
Consumer Protection Unit
County Building
Muskegon, Michigan 49440
phone: 616/724-6435

Oakland County Prosecutor's Office
Economic Crime Division
Courthouse Tower
1200 North Telegraph
Pontiac, Michigan 48053
phone: 313/858-0650

Washtenaw County Consumer Action Center
A Division of the Prosecuting Attorney's Office
200 County Building
Main and Huron Streets
Ann Arbor, Michigan 48107
phone: 313/994-2420

Wayne County Consumer Protection Division
A Division of the Prosecuting Attorney's Office
144 West Lafayette, 6th Floor
Detroit, Michigan 48226
phone: 313/224-2150

Note that only 10 of Michigan's 83 counties currently have consumer protection units in the prosecutor's office. The most highly populated counties do have such offices, however.

At the state level, the attorney general's consumer unit is headed by Edwin M. Bladen. The address of his office is:

Consumer Protection Division
Department of the Attorney General
Law Building
Lansing, Michigan 48913
(517) 373-1152

SUGGESTED CLASSROOM ACTIVITIES

RELATED TO THE MICHIGAN CONSUMER PROTECTION ACT

Resource Speakers

Have students develop questions for discussion and invite a local resource speaker to the classroom. Speakers could include:

-- representative from county prosecutor's office,

-- small claims court judge,

-- representative of business who is familar with the law,

-- a local attorney.

Letters of Complaint

To develop communications skills and knowledge of important information, have students write a sample letter of complaint to a local merchant or prospective attorney, making sure all necessary information is clearly and appropriately presented.

Role Playing and/or Prepared Skits

Have students role play or write a skit on one of the following situations. (Students can find specific examples of violations of the Act from materials included in this guide or from their county prosecuting attorney's office.)

-- illustrate a situation which violates the act (salesmen, customer).

-- illustrate a situation and have class discuss whether or not it violates the act (salesman, customer).

-- illustrate a situation where a customer is returning to a merchant to register a complaint and seek satisfaction.

-- illustrate the same situation where the customer relays the complaint to a staff member at a local Consumer Center or prosecuting attorney's office (staff person, being familiar with the Act, should probe for pertinant information).

-- illustrate prosecuting attorney's office staff person approaching merchant to discuss alleged violation.

-- illustrate a Small Claims Court hearing based on violation of the law.

Locating Violations of the Act

Have students attempt to find local examples of possible violations of the Act. Sources could include:

-- local newspaper, radio or TV ads.

-- visual ads at local shopping areas.

-- personal experience of students.

Have the class discuss:

-- the legality of the situation described.

-- appropriate actions which could be taken.

Case Studies

Have students respond to teacher-prepared case studies related to possible violations of the Act. Response should include:

-- legality of situation described.

-- appropriate action to be taken.

Field Trips

To -- Small Claims Court, or

Local Consumer Action Center, or

Prosecuting Attorney's Office where complaint could be filed.

Monitoring the Law

Students who are interested in the law could conduct an on-going project of:

-- monitoring types and numbers of consumer complaints filed with local prosecuting attorney's office.
-- checking newspapers for reports of court decisions and discussions of the implementation of the law.
-- obtaining copies of legal decisions of Michigan courts which are based on the law. (Copies of such decisions will be available at cost from the Office of the Attorney General.)
-- analyzing the implications of court decisions for consumers and for business.

Local Consumer Directory

Students could prepare a directory to consumer services in their local area.

A good pattern to follow is the consumer directory for the Detroit area compiled in the Office of State Senator Jack Faxon. Copies are available from the Senator's office (124a, State Capitol, Lansing, Michigan 48909) or from the Michigan Consumer Education Center (217A University Library, Eastern Michigan University, Ypsilanti, Michigan 48197).

OTHER MICHIGAN CONSUMER LAWS

Selected additional Michigan consumer protection laws which might be utilized in a teaching unit on Michigan Consumer Law:

Public Act 68 of 1915 -- Charitable Solicitation Act

Public Act 27 of 1950 -- Auto Installment Sales Act

Public Act 101 of 1961 -- Supervision of Trustees for Charitable Purposes Act

Public Act 332 of 1965 -- Home Improvement Finance Act

Public Act 224 of 1966 -- Retail Installment Sales Act

Public Act 326 of 1966 -- Usury Laws

Public Act 227 of 1971 -- Home Solicitation Sales Act

Public Act 161 and 193 of 1972 -- Holder-in-Due Course Acts

Public Act 286 of 1972 -- Land Sales Act

Public Act 294 of 1972 -- No-Fault Automobile Insurance Law

Public Act 348 of 1972 -- Landlord Tenant Bill: Security Deposit Act

Public Acts 105, 118, and 288 of 1974 -- Mobile Home Amendments

Public Act 155 of 1974 -- Prescription Drugs : The Generic Substitution Act

Public Act 269 of 1974 -- Franchise Investment Act

Public Act 300 of 1974 & Public Act 12 of 1976 -- Motor Vehicle Service and Repair Act

Public Act 301 of 1974 -- Private Employment Bureau Licensing Act

Public Act 361 of 1974 -- Collection Practices Act

Public Act 195 of 1976 -- Food-Dating Bill

Public Act 273 of 1976 -- Insurance Regulation Law

SELECTED RESOURCES

Because of the newness of the Act, very few resources are currently available on it. Three have been published at this time (as of July, 1977).

The New Michigan Consumer Protection Act. Course handbook from the Institute of Continuing Legal Education, Hutchins Hall, the University of Michigan Law School, Ann Arbor, Michigan 48109. ($15.00) This handbook will be useful primarily to attorneys looking for specific interpretation and precedents used in the development of the Act.

"Michigan Consumer Protection Act." Pamphlet from Michigan Consumers Council, 414 Hollister Building, Lansing, Michigan 48933.

"The Michigan Consumer Protection Act." Pamphlet from UAW Consumer Affairs Department, 8000 East Jefferson Avenue, Detroit, Michigan 48214.

Other sources related directly to Michigan consumer laws other than the Michigan Consumer Protection Act of 1976 include:

Michigan Home Economics Association, Michigan Consumer Laws: A Teacher's Handbook, Revised, 1976.

Office of the Attorney General, Consumer Protection Division, A Handbook on Consumer Protection Law in Michigan, Revised, 1975.

Michigan Consumers Council, Summary of Michigan Consumer Protection Legislation, 1974.

Numerous pamphlets and brochures about various aspects of the law relating consumers have been published by agencies of the State of Michigan. Examples are listed below, along with the addresses and phone numbers of agencies which may be helpful in answering questions related to their areas of jurisdiction.

Department of the Attorney General, Consumer Protection Division, Law Building, Lansing, Michigan 48913. (517) 373-1140.

"The Michigan Consumer Survival Manual"
"In Home Sales"
"Your Rights as an Adult"
"Know Your Rights as a Woman"
"The Michigan Credit Buyer's Guide"
"Consumer Fraud"

Department of Agriculture, Consumer Protection Bureau, Lewis Cass Building, Lansing, Michigan 48913. (517) 373-1050.

Department of Civil Rights, 1000 Cadillac Square Building, Detroit, Michigan 48226. (313) 256-2570 or (313) 222-1705.

Department of Commerce, Law Building, Lansing, Michigan 48913. (517) 373-1820. (Divisions in Law Building, unless another address is given)

-- Consumer Affairs Division
Financial Institutions Bureau
(517) 373-3460 or (517) 373-8093
"How to Shop for Credit"

-- Insurance Bureau
111 N. Hosmer Street
Lansing, Michigan 48913
(517) 373-0220
"Consumers' Guide to Health Insurance in Michigan"
"Consumers' Guide to Life Insurance in Michigan"
"Consumers' Guide to Automobile Insurance in Michigan"

-- Consumer Services Division
Public Service Commission
(517) 373-8590
Toll free: 1-800-292-9555
"Know Your Bill of Rights as a Utility Customer in Michigan"

-- Securities Bureau
(517) 373-0485

Michigan Consumers Council, 414 Hollister Building, Lansing, Michigan 48933. (517) 373-0947.
Consumer News and Views (periodic newsletter)

Department of Labor, 300 E. Michigan Avenue, Lansing, Michigan 48926. (517) 373-3575.

Department of Licensing and Regulation, 1033 South Washington Avenue, Lansing, Michigan 48926. (517) 373-1870.

Department of Social Services, Commerce Center, Lansing, Michigan 48926. (517) 373-2000.

Department of State, Car Repair Division, Bureau of Automobile Regulation, P. O. Box 4017, Gaffner Building, Lansing, Michigan 48918. (517) 373-7859.
Wayne, Oakland, Macomb Counties: 357-5108
Toll free elsewhere in state: 1-800-292-4204.
"Having Your Car Repaired? Know Your Rights"

APPENDIX

Now that you know what businesses aren't supposed to do, what happens if they do it anyway?

What Law Enforcement Agencies Can Do:

If you file a complaint with your county Prosecuting Attorney or a law enforcement agency he or she must immediately send written notice of the complaint to the Attorney General.

The Attorney General can then bring suit in circuit court and ask for a temporary or permanent injunction against the offending business. If the business continues to violate this law, the court can fine them up to $25,000 or if they violate the terms of the court order, the fine can be up to $5,000 for each violation.

The Attorney General can also file a **class action suit** which could result in a court order 1) to reimburse people who have suffered **actual** damages, 2) to make sure the business operates the way people might reasonably expect it to, or 3) to grant other appropriate relief (that's up to the judge or jury). Your county Prosecuting Attorney may also file suit in the same manner as the Attorney General.

If the violation of this act happened because of bona fide error, the amount recovered will be limited to the amount of actual damages or loss.

What You Can Do:

FIRST — if you go to court because you refuse to pay for a product or service you purchased, one of your legal defenses for not paying may be that there was a **violation of this Act** in your transaction with the seller. This will usually happen with installment contracts where you are paying over a period of time and you stop the monthly payments because you believe the product or service is shoddy or defective.

SECOND — you can file suit to have a specific business practice declared unlawful under this Act, or you can ask for an injunction to prohibit a certain business practice.

THIRD — if you have suffered a loss as a result of a violation of this Act, you may file suit to recover your actual losses or $250.00, whichever is greater. If you win the suit, the business may also have to pay your attorney's fees. Also, remember that small claims court may be the best place to file suit if your loss is $300 or less and you do not need an attorney.

FOURTH — you as an individual may also file a suit which represents all other consumers who suffered losses in the same way that you did (class action). This type of suit could again result in a court order 1) to reimburse people who have suffered actual losses, 2) to make sure the business operates the way people might reasonably expect it to, or 3) to grant other appropriate relief which is up to the judge or jury.

Whenever a class action suit is filed, the court may determine that the case is strong enough to require the defendant (business) to pay the costs of notifying all members of the class in whose behalf the suit is filed.

No suit may be filed more than six (6) years after the violation occurred, or more than one (1) year after the last payment was made on a transaction.

The state has finally given Michigan consumers a powerful tool with which to force businesses to conduct their affairs fairly and responsibly. It is now up to us, the consumers, to see that we use this tool and use it well.

UAW Consumer Affairs Department
ODESSA KOMER
Vice President and Director
8000 East Jefferson Avenue
Detroit, Michigan 48214
(313) 926-5357

The Michigan Consumer Protection Act . . .

. . . your shield against unfair business practices.

YOU ARE NOW PROTECTED AGAINST UNFAIR BUSINESS PRACTICES BY RETAIL STORES, INSURANCE COMPANIES, AUTO DEALERS AND REPAIR SHOPS, UTILITIES, BANKS, MORTGAGE COMPANIES AND SERVICE COMPANIES SUCH AS PLUMBERS, TV REPAIR SHOPS AND MANY, MANY MORE!!

HOW?

Through the new MICHIGAN CONSUMER PROTECTION ACT.

After many years of work, of trial and error, Michigan Consumers (that's all of us) can now fight the rip-offs in the marketplace. We can now ask the Attorney General (or our county Prosecutors) to go after unfair businesses. We can take those businesses to court ourselves, either alone or in a class action. And we can recover damages. In some cases we can even put them out of business!

Here's how the whole thing works:

A BUSINESS CAN NO LONGER

- Advertise a good or service with no intention of selling it as advertised.
- Advertise a good or service without having enough supplies to meet the reasonable public demand, unless that ad also clearly states the quantity limitation.
- Mislead you about price reductions.
- Mislead you about where goods and services come from.
- Mislead you about who sponsors or certifies goods and services or about the sellers of those items.
- Tell you that a product or service will be provided "free" without clearly stating the terms involved.
- Tell you that a product or service is of one particular standard, grade, quality, style or model when it's really one of the others.
- Tell you that a product is new when it is not.
- Threaten you or keep pressuring you into buying something.
- Tell you that a part, replacement or repair is needed when it isn't.
- Charge you considerably more than the going rate or price.
- Mislead you about needing something to protect you and/or your family's health and welfare.
- Mislead you about other businesses and the products and services of those businesses.
- Tell you just the positive facts about a sales transaction or rental agreement.
- Tell you that if you give the seller a list of names of prospective customers and if he/she sells the product to those people, the cost of the product you are buying will be reduced for every sale made. (This is known as a referral selling scheme.)
- Deliver something you haven't ordered or asked for.
- Arrange for you to sign a statement concerning acceptance, delivery, compliance with law, etc. if they know that the statement isn't true.
- Make verbal promises that are vastly different from the terms of the written agreement or fail to provide the promised benefits.
- Be confusing about the terms or conditions of credit in a sales transaction or rental agreement.
- Mislead you about who has the authority to negotiate the final terms of a contract.
- Take advantage of you because you can't read or understand a contract or because you have a disability.
- Make statements designed to make you believe something about a transaction that is not actually the case.
- Mislead you about the legal rights and responsibilities of either seller or buyer.
- Deceive you by not telling you an important fact concerning a transaction, especially if you wouldn't know it otherwise.
- Disclaim or limit the implied warranty of merchantability* of a good without clearly saying so.
- Delay returning a down payment, deposit, etc. to you after you have legally cancelled a transaction.
- Deceive you by not telling you that you are giving up certain rights, benefits or other protections provided by law, and by not getting your specific agreement to do that.

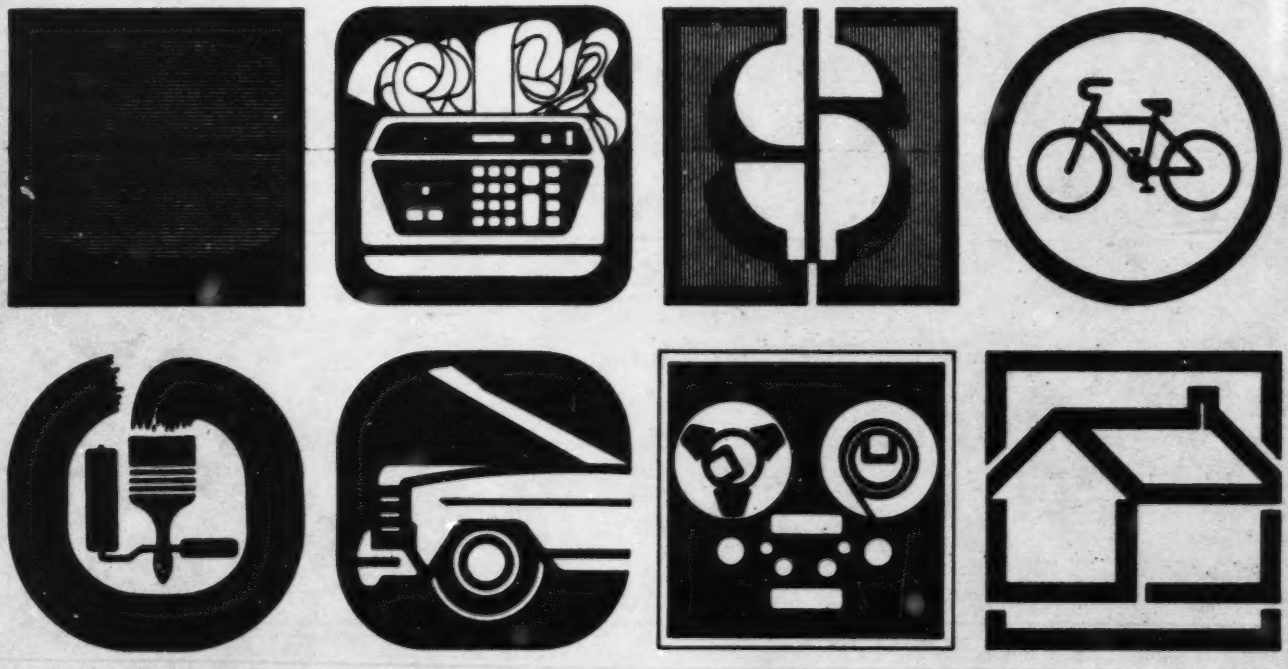
***The IMPLIED WARRANTY OF MERCHANTABILITY means that when a product is put on the open market it is supposed to be free from defects, built correctly and meet reasonable standards. In other words, an automobile should not be a "lemon."**

Michigan Consumer protection act

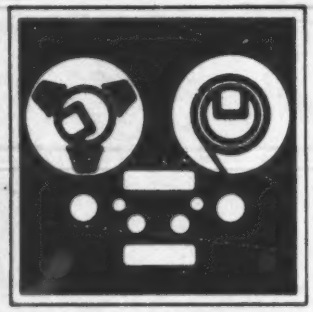
The Consumer Protection Act in Michigan gives consumers, prosecutors, and the attorney general a more effective way to fight deceptive practices. After almost 10 years of discussion and compromise, the state legislature approved the Act which prohibits 29 unfair and deceptive trade practices and gives prosecutors more power to enforce the law. It also encourages consumers to sue businesses which they suspect are deceiving customers. If they win, consumers will receive damages or $250, whichever is greater, and reasonable attorneys' fees.

While the Act prohibits certain practices, the administrative rules of the attorney general and subsequent court cases will interpret the scope of each provision.

The following chart gives the prohibited practices listed in the Consumer Protection Act and an example of the type of situation which may apply.



Prohibited Practices and Examples



1) *Causing a probability of confusion or misunderstanding as to the source, sponsorship, approval or certification of goods or services.*

   Example: A mail order company uses a governmental-sounding name to imply government sanction.

2) *Using deceptive representations or deceptive designations of geographic origin in connection with goods or services.*

   Example: A manufacturer labels sausage, made in the United States, with the words "Polish sausage" instead of "Polish-style" sausage.

3) *Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has sponsorship, approval, status, affiliation, or connection which he does not have.*

   Example: A business falsely claims to have the endorsement of the Chamber of Commerce or Better Business Bureau.

4) *Representing that goods are new if they are deteriorated, altered, reconditioned, used, or secondhand.*

   Example: A tire dealer sells retreaded tires as new.

5) *Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another.*

   Example: An appliance store sells a 1975 model television as a 1977 model.

6) *Disparaging the goods, services, business, or reputation of another by false or misleading representation of fact.*

   Example: A business falsely claims it can undersell competitors because the competition can't buy in as large a volume from wholesalers.

7) *Advertising or representing goods or services with intent not to dispose of those goods or services as advertised or represented.*

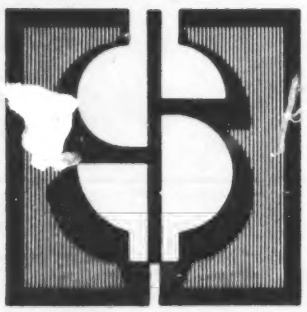
   Example: A department store advertises a low-priced sewing machine with the intent to switch consumers to a higher priced model.

8) *Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity in immediate conjunction with the advertised goods or services.*

   Example: A store advertises a sale on freezers without disclosing it has only three in stock.

9) *Making false or misleading statements of fact concerning the reason for, existence of, or amounts of, price reductions.*

   Example: A store advertises merchandise at 20 percent off the "regular" price but has never sold the merchandise at the "regular" price.



10) *Representing that a part, replacement, or repair service is needed when it is not.*

    Example: A television repairperson falsely claims several television tubes are defective and need to be replaced.

11) *Representing to a party to whom goods or services are supplied that the goods or services are being supplied in response to a request made by or on behalf of the party, when they are not.*

    Example: A record club sends a record album and bill falsely claiming the member had ordered it.

12) *Misrepresenting that because of some defect in a consumer's home the health, safety, or lives of the consumer or his family are in danger if the product or services are not purchased, when in fact the defect does not exist or the product or services would not remove the danger.*

    Example: A home repairperson claims a furnace is dangerous and should be replaced immediately when it's neither dangerous nor in need of replacement.

13) *Causing a probability of confusion or of misunderstanding with respect to the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.*

    Example: A car salesperson makes an offer to sell a car at a certain price but does not have the final authority to negotiate the price.

14) *Causing probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction.*

    Example: A salesperson implies a contract can be easily canceled when there are severe restrictions on the cancellation.

15) *Causing a probability of confusion or of misunderstanding as to the terms or conditions of credit if credit is extended in a transaction.*

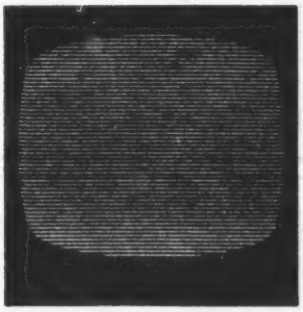
    Example: A business claims a consumer will not have to make the first installment payment on a purchase for 60 days but sends a bill requiring immediate payment a week after the sale.

16) *Disclaiming or limiting the implied warranty of merchantability and fitness for use, unless a disclaimer is clearly and conspicuously disclosed.*

    Example: A manufacturer refuses to repair a recently purchased lawn mower which won't cut grass and was not sold "as is."

17) *Representing or implying that the subject of a consumer transaction will be provided promptly, or at a specified time, or within a reasonable time, if the merchant knows or has reason to know it will not be so provided.*

Example: A furniture manager claims new furniture will be delivered within two weeks but knows it will take longer to get it from the manufacturer.



18) *Representing that a consumer will receive goods or services "free," "without charge," or words of similar import without clearly and conspicuously disclosing with equal prominence in immediate conjunction with the use of those words the conditions, terms, or prerequisites to the use or retention of the goods or services advertised.*

Example: A gas station advertises a free car wash with a fill-up without clearly disclosing that a minimum purchase is required.

19) *Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer.*

Example: A builder makes surface repairs to an old home to hide substantial defects and code violations.

20) *Entering into a consumer transaction in which the consumer waives or purports to waive a right, benefit, or immunity provided by law, unless the waiver is clearly stated and the consumer has specifically consented to it.*

Example: A business refuses to give a refund on a defective product claiming "all sales are final" although the product was not sold "as is."

21) *Failing, in a consumer transaction which is rescinded, canceled, or otherwise terminated in accordance with the terms of an agreement, advertisement, representation, or provision of law, to promptly restore to the person or persons entitled thereto any deposit, down payment, or other payment, or in the case of property traded in but not available, the greater of the agreed value or the fair market value of the property, or to cancel within a specified time or an otherwise reasonable time an acquired security interest.*

Example: A door-to-door salesperson refuses to return a deposit even though the consumer has canceled the contract within three business days as provided by Michigan's Door-to-Door Sales Law.

22) *Taking or arranging for the consumer to sign an acknowledgement, certificate, or other writing affirming acceptance, delivery, compliance with a requirement of law, or other performance, if the merchant knows or has reason to know that the statement is not true.*

Example: A moving company requires a consumer to sign a statement confirming that all goods have arrived undamaged when the mover knows it isn't true.

23) *Representing that a consumer will receive a rebate, discount, or other benefit as an inducement for entering into a transaction, if the benefit is contingent on an event to occur subsequent to the consummation of the transaction.*

Example: A salesperson convinces a consumer to purchase a vacuum cleaner by promising cash for each person the consumer gets to buy one in the future.

24) *Taking advantage of the consumer's inability to reasonably protect his interests by reason of disability, illiteracy, or inability to understand the language of an agreement presented by the other party to the transaction who knows or reasonably should know of the consumer's inability.*

Example: A business requires a person who only understands Spanish to sign a contract written in English.

25) *Gross discrepancies between the oral representations of the seller and the written agreement covering the same transaction or failure of the other party to the transaction to provide the promised benefits.*

Example: A travel agent claims meals and entertainment are included in a tour package when the agent knows they are not.

26) *Charging the consumer a price which is grossly in excess of the price at which similar property or services are sold.*

Example: A gas station charges a consumer, whose car has run out of gas, $20 per gallon when there are no other gas stations for 50 miles.

27) *Causing coercion and duress as the result of the time and nature of a sales presentation.*

Example: An agent for a home repair contractor convinces a consumer whose house is on fire to sign a contract for repairs.

28) *Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is.*

Example: An insurance agent implies an insurance policy is really a savings program by using the word "contract" instead of "policy," "deposit" instead of "premium."

29) *Failing to reveal facts which are material to the transaction in light of representations of fact made in a positive manner.*

Example: A car dealer claims a used car has been repaired so that it runs perfectly but knows its headlights don't work.

Public Act 331 of 1976, Effective April 1, 1977

The Consumer Protection Act gives strong enforcement powers to county prosecutors and the attorney general. If an enforcement agency believes a business has violated the Act or is about to, it can:

- Request a court order to stop the business from using the practice. The business has 10 days to stop the practice before court action begins.
- Request a court to require the business to appear before the enforcement agency for questioning or for a review of its records.
- Accept an assurance of discontinuance. This means the business does not admit guilt but agrees to stop using the questionable practice.
- File a class action lawsuit on behalf of consumers.
- Negotiate a settlement between a consumer and a business.

There are penalties for violating the Act. For continued and deliberate violation of a prohibited practice, a business may be fined up to $25,000. A person who violates a court order on purpose may receive a fine up to $5,000. The Act requires a civil penalty up to $5,000 for a person who ignores or avoids a subpoena or who hides important information.

Under the Act, consumers have several ways to fight deceptive practices. They can:

- Ask a court to order a business to stop using an illegal practice.
- File a lawsuit to recover attorneys' fees as well as actual damages or $250, whichever is greater.
- File a class action lawsuit.

While the Consumer Protection Act is available if you need it, remember it's aimed at dishonest operators who are a small portion of the business community. Chances are when you have a complaint against a business, it is the result of a mistake or a misunderstanding, rather than an intentional effort to mislead or deceive.

Before you decide to take legal action or contact an enforcement agency, try to solve the complaint yourself. Ask to see the store manager or write a letter to the company's president. Calmly present your side of the problem and have a solution in mind. If that fails then take your problem to the county prosecutor or the attorney general. If you are unable to locate someone to assist you, write to the Michigan Consumers Council, 414 Hollister Building, Lansing, Michigan 48933. We'll see that your complaint is referred to the appropriate agency.

michigan consumers council

414 Hollister Building
Lansing, Michigan 48933
(517) 373-0947

Agnes Bryant, Chairwoman
Linda Joy, Executive Director
Kent Wilcox, Deputy Director
Linda Lawson, Director of Information

Recycled Paper

Act No. 331
Public Acts of 1976
Approved by Governor
December 15, 1976

STATE OF MICHIGAN
78TH LEGISLATURE
REGULAR SESSION OF 1976

Introduced by Senators Guastello, Brown, Kildee, McCauley, Snyder, Faxon, Hart, Cooper and Holmes

ENROLLED SENATE BILL No. 1

AN ACT to prohibit certain methods, acts, and practices in trade or commerce; to prescribe certain powers and duties; to provide for certain remedies, damages, and penalties; to provide for the promulgation of rules; to provide for certain investigations; and to prescribe penalties.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "Michigan consumer protection act".

Sec. 2. As used in this act:

(a) "Documentary material" includes the original or copy of a book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situated.

(b) "Person" means a natural person, corporation, trust, partnership, incorporated or unincorporated association, or other legal entity.

(c) "Trade or commerce" means the conduct of a business providing goods, property, or service primarily for personal, family, or household purposes and includes the advertising, solicitation, offering for sale or rent, sale, lease, or distribution of a service or property, tangible or intangible, real, personal, or mixed, or any other article. "Trade or commerce" does not include franchising but does include pyramid and chain promotions as defined in section 28 of Act No. 269 of the Public Acts of 1974, being section 445.1528 of the Michigan Compiled Laws.

Sec. 3. (1) Unfair, unconscionable, or deceptive methods, acts or practices in the conduct of trade or commerce are unlawful and are defined as follows:

(a) Causing a probability of confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services.

(b) Using deceptive representations or deceptive designations of geographic origin in connection with goods or services.

(c) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has sponsorship, approval, status, affiliation, or connection which he does not have.

(d) Representing that goods are new if they are deteriorated, altered, reconditioned, used, or secondhand.

(e) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

(f) Disparaging the goods, services, business, or reputation of another by false or misleading representation of fact.

(g) Advertising or representing goods or services with intent not to dispose of those goods or services as advertised or represented.

(h) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity in immediate conjunction with the advertised goods or services.

(i) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of, price reductions.

(j) Representing that a part, replacement, or repair service is needed when it is not.

(k) Representing to a party to whom goods or services are supplied that the goods or services are being supplied in response to a request made by or on behalf of the party, when they are not.

(*l*) Misrepresenting that because of some defect in a consumer's home the health, safety, or lives of the consumer or his family are in danger if the product or services are not purchased, when in fact the defect does not exist or the product or services would not remove the danger.

(m) Causing a probability of confusion or of misunderstanding with respect to the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) Causing a probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction.

(o) Causing a probability of confusion or of misunderstanding as to the terms or conditions of credit if credit is extended in a transaction.

(p) Disclaiming or limiting the implied warranty of merchantability and fitness for use, unless a disclaimer is clearly and conspicuously disclosed.

(q) Representing or implying that the subject of a consumer transaction will be provided promptly, or at a specified time, or within a reasonable time, if the merchant knows or has reason to know it will not be so provided.

(r) Representing that a consumer will receive goods or services "free", "without charge", or words of similar import without clearly and conspicuously disclosing with equal prominence in immediate conjunction with the use of those words the conditions, terms, or prerequisites to the use or retention of the goods or services advertised.

(s) Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer.

(t) Entering into a consumer transaction in which the consumer waives or purports to waive a right, benefit, or immunity provided by law, unless the waiver is clearly stated and the consumer has specifically consented to it.

(u) Failing, in a consumer transaction which is rescinded, canceled, or otherwise terminated in accordance with the terms of an agreement, advertisement, representation, or provision of law, to promptly restore to the person or persons entitled thereto any deposit, down payment, or other payment, or in the case of property traded in but not available, the greater of the agreed value or the fair market value of the property, or to cancel within a specified time or an otherwise reasonable time an acquired security interest.

(v) Taking or arranging for the consumer to sign an acknowledgement, certificate, or other writing affirming acceptance, delivery, compliance with a requirement of law, or other performance, if the merchant knows or has reason to know that the statement is not true.

(w) Representing that a consumer will receive a rebate, discount, or other benefit as an inducement for entering into a transaction, if the benefit is contingent on an event to occur subsequent to the consummation of the transaction.

(x) Taking advantage of the consumer's inability reasonably to protect his interests by reason of disability, illiteracy, or inability to understand the language of an agreement presented by the other party to the transaction who knows or reasonably should know of the consumer's inability.

(y) Gross discrepancies between the oral representations of the seller and the written agreement covering the same transaction or failure of the other party to the transaction to provide the promised benefits.

(z) Charging the consumer a price which is grossly in excess of the price at which similar property or services are sold.

(aa) Causing coercion and duress as the result of the time and nature of a sales presentation.

(bb) Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is.

(cc) Failing to reveal facts which are material to the transaction in light of representations of fact made in a positive manner.

(2) The attorney general may promulgate rules to implement this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. The rules shall not create any additional unfair trade practices not already enumerated by this section.

Sec. 4. (1) This act shall not apply to:

(a) A transaction or conduct specifically authorized under laws administered by a regulatory board or officer acting under statutory authority of this state or the United States.

(b) An act done by the publisher, owner, agent, or employee of a newspaper, periodical, directory, radio or television station, or other communications medium in the publication or dissemination of an advertisement unless the publisher, owner, agent, or employee knows or, under the circumstances, reasonably should know of the false, misleading, or deceptive character of the advertisement or has a direct financial interest in the sale or distribution of the advertised goods, property, or service.

(2) Except for the purposes of an action filed by a person under section 11, this act shall not apply to an unfair, unconscionable, or deceptive method, act, or practice which is made unlawful by:

(a) Chapter 20 of Act No. 218 of the Public Acts of 1956, as amended, being sections 500.2001 to 500.2083 of the Michigan Compiled Laws.

(b) Act No. 319 of the Public Acts of 1969, as amended, being sections 487.301 to 487.598 of the Michigan Compiled Laws.

(c) Act No. 3 of the Public Acts of 1939, as amended, being sections 460.1 to 460.8 of the Michigan Compiled Laws.

(d) Act No. 254 of the Public Acts of 1933, as amended, being sections 475.1 to 479.49 of the Michigan Compiled Laws.

(e) Act No. 108 of the Public Acts of 1939, as amended, being sections 550.301 to 550.316 of the Michigan Compiled Laws.

(f) Act No. 109 of the Public Acts of 1939, as amended, being sections 550.501 to 550.517 of the Michigan Compiled Laws.

(g) Act No. 284 of the Public Acts of 1974, being sections 325.901 to 325.947 of the Michigan Compiled Laws.

(h) Act No. 125 of the Public Acts of 1963, being sections 550.351 to 550.373 of the Michigan Compiled Laws.

(3) The burden of proving an exemption from this act is upon the person claiming the exemption.

Sec. 5. (1) When the attorney general has probable cause to believe that a person has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful pursuant to section 3, and upon notice given in accordance with this section, the attorney general may bring an action in accordance with principles of equity to restrain the defendant by temporary or permanent injunction from engaging in the method, act, or practice. The action may be brought in the circuit court of the county where the defendant is established or conducts business or, if the defendant is not established in this state, in the circuit court of Ingham county. The court may award costs to the prevailing party. For persistent and knowing violation of section 3 the court may assess the defendant a civil penalty of not more than $25,000.00.

(2) Unless waived by the court on good cause shown not less than 10 days before the commencement of an action under this section the attorney general shall notify the person of his intended action and give the person an opportunity to cease and desist from the alleged unlawful method, act, or practice or to confer with the attorney general in person, by counsel, or by other representative as to the proposed action before the proposed filing date. The notice may be given the person by mail, postage prepaid, to his usual place of business or, if the person does not have a usual place of business, to his last known address, or, with respect to a corporation, only to a resident agent who is designated to receive service of process or to an officer of the corporation.

(3) A prosecuting attorney or law enforcement officer receiving notice of an alleged violation of this act, or of a violation of an injunction, order, decree, or judgment issued in an action brought pursuant to this section, or of an assurance under this act, shall immediately forward written notice of the violation together with any information he may have to the office of the attorney general.

(4) A person who knowingly violates the terms of an injunction, order, decree, or judgment issued pursuant to this section shall forfeit and pay to the state a civil penalty of not more than $5,000.00 for each violation. For the purposes of this section, the court issuing an injunction, order, decree, or judgment shall retain jurisdiction, the cause shall be continued, and the attorney general may petition for recovery of a civil penalty as provided by this section.

Sec. 6. (1) When the attorney general has authority to institute an action or proceeding pursuant to section 5, he may accept an assurance of discontinuance of a method, act, or practice which is alleged to be unlawful under section 3 from the person who is alleged to have engaged, be engaging, or be about to engage in the method, act, or practice. The assurance shall not constitute an admission of guilt nor be introduced in any other proceeding. The assurance may include a stipulation for any or all of the following:

(a) The voluntary payment by the person for the costs of investigation.

(b) An amount to be held in escrow pending the outcome of an action.

(c) An amount for restitution to an aggrieved person.

(2) An assurance of discontinuance shall be in writing and may be filed with the circuit court of Ingham county. The clerk of the court shall maintain a record of the filings. Unless rescinded by the parties or voided by a court for good cause, the assurance may be enforced in the circuit court by the parties to the assurance. The assurance may be modified by the parties or by a court for good cause.

Sec. 7. (1) Upon the ex parte application of the attorney general to the circuit court in the county where the defendant is established or conducts business or, if the defendant is not established in this state, in Ingham county, the circuit court, if it finds probable cause to believe a person has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful under this act, may, after an ex parte hearing, issue a subpoena compelling a person to appear before the attorney general and answer under oath questions relating to an alleged violation of this act. A person served with a subpoena may be accompanied by counsel when he appears before the attorney general. The subpoena may compel a person to produce the books, records, papers, documents, or things relating to an alleged violation of this act. During the examination of documentary material under the subpoena, the court may require a person having knowledge of the documentary material or the matters contained therein to attend and give testimony under oath or acknowledgment with respect to the documentary material.

(2) The subpoena shall include the notice of the time, place, and cause of the taking of testimony, the examination, or the attendance and shall allow not less than 10 days before the date of the taking of testimony or examination, unless for good cause shown the court shortens that period of time.

(3) Service of the notice shall be in the manner provided and subject to the provisions that apply to service of process upon a defendant in a civil action commenced in the circuit court.

(4) The notice shall:

(a) State the time and place for the taking of testimony or the examination and the name and address of the person to be examined. If the name is not known, the notice shall give a general description sufficient to identify the person or the particular class or group to which the person belongs.

(b) State a reference to this section and the general subject matter under investigation.

(c) Describe the documentary material to be produced with reasonable specificity so as to indicate fairly the material demanded.

(d) Prescribe a return date within which the documentary material shall be produced.

(e) Identify the members of the attorney general's staff to whom the documentary material shall be made available for inspection and copying.

(5) At any time before the date specified in the notice, upon motion for good cause shown, the court may extend the reporting date or modify or set aside the notice and subpoena.

(6) The documentary material or other information obtained by the attorney general pursuant to an investigation under this section shall be confidential records of the office of the attorney general and shall not be available for public inspection or copying or divulged to any person except as provided in this section. The attorney general may disclose documentary material or other information as follows:

(a) To other law enforcement officials.

(b) In connection with an enforcement action brought pursuant to this act.

(c) Upon order of the court, to a party in a private action brought pursuant to this act.

(7) A person who discloses information designated confidential by this section, except as permitted by subsection (6) or under court order, is guilty of a misdemeanor and may be fined not more than $2,500.00, or imprisoned for not more than 1 year, or both.

Sec. 8. (1) A person upon whom a notice is served pursuant to section 7 shall comply with the terms of the notice unless otherwise provided by the order of the circuit court.

(2) A person who does any of the following shall be assessed a civil penalty of not more than $5,000.00.

(a) Knowingly without good cause fails to appear when served with a notice.

(b) Knowingly avoids, evades, or prevents compliance, in whole or in part, with an investigation, including the removal from any place, concealment, destruction, mutilation, alteration, or falsification of documentary material in the possession, custody, or control of a person subject to the notice.

(c) Knowingly conceals relevant information.

(3) The attorney general may file a petition in the circuit court of the county in which the person is established or conducts business or, if the person is not established in this state, in the circuit court of Ingham county for an order to enforce compliance with a subpoena or this section. A violation of a final order entered pursuant to this section shall be punished as civil contempt.

(4) Upon the petition of the attorney general, the circuit court may enjoin a person from doing business in this state if the person persistently and knowingly evades or prevents compliance with an injunction issued pursuant to this act.

Sec. 9. (1) The attorney general shall publish, make available for public inspection and copying during business hours, and distribute by subscription upon the request of any person:

(a) Rules promulgated under section 3 (2).

(b) Copies of final judgments rendered under this act provided to the attorney general by clerks of the courts pursuant to section 12 (1).

(c) Any other matter as required by Act No. 306 of the Public Acts of 1969, as amended.

(d) An assurance of discontinuance entered into pursuant to section 6.

(2) The attorney general may charge a reasonable fee to cover the expense of copying or distribution.

Sec. 10. (1) The attorney general may bring a class action on behalf of persons residing in or injured in this state for the actual damages caused by any of the following:

(a) A method, act, or practice in trade or commerce defined as unlawful under section 3.

(b) A method, act, or practice in trade or commerce declared to be unlawful under section 3 (1) by a final judgment of the circuit court or an appellate court of this state which is either reported officially or made available for public dissemination pursuant to section 9 by the attorney general not less than 30 days before the method, act, or practice on which the action is based occurs.

(c) A method, act, or practice in trade or commerce declared by a circuit court of appeals or the supreme court of the United States to be an unfair or deceptive act or practice within the meaning of section 5(a)(1) of the federal trade commission act, 15 U.S.C. 45(a)(1), in a decision which affirms or directs the affirmance of a cease and desist order issued by the federal trade commission if the order is final within the meaning of section 5(g) of the federal trade commission act, 15 U.S.C. 45(g), and which is officially reported not less than 30 days before the method, act, or practice on which the action is based occurs. For purposes of this subdivision, a method, act, or practice shall not be deemed to be unfair or deceptive within the meaning of section 5(a)(1) of the federal trade commission act solely because the method, act, or practice is made unalwful by another federal statute that refers to or incorporates section 5(a)(1) of the federal trade commission act.

(2) On motion of the attorney general and without bond in an action under this section the court may make an appropriate order: to reimburse persons who have suffered damages; to carry out a transaction in accordance with the aggrieved persons' reasonable expectations; to strike or limit the application of unconscionable clauses of contracts to avoid an unconscionable result; or to grant other appropriate relief. The court after a hearing may appoint a receiver or order sequestration of the defendant's assets if it appears to the satisfaction of the court that the defendant threatens or is about to remove, conceal, or dispose of his assets to the detriment of members of the class.

(3) If at any stage of the proceedings the court requires that notice be sent to the class, the attorney general may petition the court to require the defendant to bear the cost of the notice. In determining whether to impose the cost on the defendant or the state, the court shall consider the probability that the attorney general will succeed on the merits of the action.

(4) If the defendant shows by a preponderance of the evidence that a violation of this act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, the amount of recovery shall be limited to actual damages.

(5) An action shall not be brought by the attorney general under this section more than 6 years after the

occurrence of the method, act, or practice which is the subject of the action nor more than 1 year after the last payment in a transaction involving the method, act, or practice which is the subject of the action, whichever period of time ends on a later date.

Sec. 11. (1) Whether or not he seeks damages or has an adequate remedy at law, a person may bring an action to do either or both of the following:

(a) Obtain a declaratory judgment that a method, act, or practice is unlawful under section 3.

(b) Enjoin in accordance with the principles of equity a person who is engaging or is about to engage in a method, act, or practice which is unlawful under section 3.

(2) Except in a class action, a person who suffers loss as a result of a violation of this act may bring an action to recover actual damages or $250.00, whichever is greater, together with reasonable attorneys' fees.

(3) A person who suffers loss as a result of a violation of this act may bring a class action on behalf of persons residing or injured in this state for the actual damages caused by any of the following:

(a) A method, act, or practice in trade or commerce defined as unlawful under section 3.

(b) A method, act, or practice in trade or commerce declared to be unlawful under section 3(1) by a final judgment of the circuit court or an appellate court of this state which is either reported officially or made available for public dissemination pursuant to section 9 by the attorney general not less than 30 days before the method, act, or practice on which the action is based occurs.

(c) A method, act, or practice in trade or commerce declared by a circuit court of appeals or the supreme court of the United States to be an unfair or deceptive act or practice within the meaning of section 5(a)(1) of the federal trade commission act, 15 U.S.C. 45(a)(1), in a decision which affirms or directs the affirmance of a cease and desist order issued by the federal trade commission if the order is final within the meaning of section 5(g) of the federal trade commission act, 15 U.S.C. 45(g), and which is officially reported not less than 30 days before the method, act, or practice on which the action is based occurs. For purposes of this subdivision, a method, act, or practice shall not be deemed to be unfair or deceptive within the meaning of section 5(a)(1) of the federal trade commission act solely because the method, act, or practice is made unlawful by another federal statute that refers to or incorporates section 5(a)(1) of the federal trade commission act.

(4) On motion of a person and without bond in an action brought under subsection (3) the court may make an appropriate order: to reimburse persons who have suffered damages; to carry out a transaction in accordance with the aggrieved persons' reasonable expectations; to strike or limit the application of unconscionable clauses of contracts to avoid an unconscionable result; or to grant other appropriate relief. The court after a hearing may appoint a receiver or order sequestration of the defendant's assets if it appears to the satisfaction of the court that the defendant threatens or is about to remove, conceal, or dispose of his assets to the detriment of members of the class.

(5) If at any stage of proceedings brought under subsection (3) the court requires that notice be sent to the class, a person may petition the court to require the defendant to bear the cost of notice. In determining whether to impose the cost on the defendant or the plaintiff, the court shall consider the probability that the person will succeed on the merits of his action.

(6) If the defendant shows by a preponderance of the evidence that a violation of this act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, the amount of recovery shall be limited to actual damages.

(7) An action under this section shall not be brought more than 6 years after the occurrence of the method, act, or practice which is the subject of the action nor more than 1 year after the last payment in a transaction involving the method, act, or practice which is the subject of the action, whichever period of time ends at a later date. However, when a person commences an action against another person, the defendant may assert, as a defense or counterclaim, any claim under this act arising out of the transaction on which the action is brought.

Sec. 12. (1) Upon commencement of an action brought pursuant to section 11 or section 15, the clerk of the court shall mail a copy of the complaint to the attorney general, and upon entry of a judgment or decree in the action, the clerk of the court shall mail a copy of the judgment, decree, or order to the attorney general.

(2) In a subsequent action by the attorney general brought pursuant to section 10 proof of a violation of a permanent injunction issued pursuant to section 5 is conclusive evidence that the defendant engaged in a method, act, or practice which is unlawful under this act.

Sec. 13. When the attorney general or prosecuting attorney commences an action or files a voluntary assurance pursuant to this act, filing fees shall not be required to be paid.

Sec. 14. A law enforcement officer in the state, if requested by the attorney general or a prosecuting attorney, shall aid and assist in an investigation of an alleged or actual violation of this act.

Sec. 15. A prosecuting attorney may conduct an investigation pursuant to this act and may institute and prosecute an action under this act in the same manner as the attorney general.

Sec. 16. This act shall not affect any other cause of action which is available. A city, village, township, or county shall not enact an ordinance or other regulation inconsistent with this act or with a rule promulgated pursuant to this act.

Sec. 17. (1) The commissioner of the financial institutions bureau may investigate, in the manner set forth in section 7, a state or federally chartered bank, savings and loan association, or credit union, or a regulatory loan licensee which the commissioner believes has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful under this act.

(2) When the commissioner requires the use of the subpoena power provided in this act, an application shall be made to the attorney general, who shall proceed to procure a subpoena on behalf of the commissioner in accordance with section 7.

(3) Upon conclusion of an investigation, the commissioner shall provide a full report to the attorney general.

Sec. 18. (1) The public service commission may investigate, in the manner set forth in section 7, a public utility subject to its jurisdiction, as defined in Act No. 3 of the Public Acts of 1939, as amended, being sections 460.1 to 460.8 of the Michigan Compiled Laws, and Act No. 254 of the Public Acts of 1933, as amended, being sections 475.1 to 479.49 of the Michigan Compiled Laws, which the commission believes has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful under this act.

(2) When the commission requires the use of the subpoena power provided in this act, an application shall be made to the attorney general, who shall proceed to procure a subpoena on behalf of the commission in accordance with section 7.

(3) Upon conclusion of an investigation, the commission shall provide a full report to the attorney general.

Sec. 19. (1) The cemetery commission may investigate, in the manner set forth in section 7, a person subject to Act No. 251 of the Public Acts of 1968, as amended, being sections 456.521 to 456.543 of the Michigan Compiled Laws, who the commission believes has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful under this act.

(2) When the commission requires the use of the subpoena power provided in this act, an application shall be made to the attorney general, who shall proceed to procure a subpoena on behalf of the commission in accordance with section 7.

(3) Upon conclusion of an investigation, the commission shall provide a full report to the attorney general.

Sec. 20. (1) The director of the department of commerce may investigate, in the manner set forth in section 7, a person subject to Act No. 265 of the Public Acts of 1964, as amended, being sections 451.501 to 451.818 of the Michigan Compiled Laws; Act No. 229 of the Public Acts of 1963, as amended, being sections 559.1 to 559.31 of the Michigan Compiled Laws; Act No. 284 of the Public Acts of 1972, as amended, being sections 450.1101 to 450.2099 of the Michigan Compiled Laws; or Act No. 269 of the Public Acts of 1974, being sections 445.1501 to 445.1545 of the Michigan Compiled Laws, who the director believes has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful under this act.

(2) When the director requires the use of the subpoena power provided in this act, an application shall be made to the attorney general, who shall proceed to procure a subpoena on behalf of the director in accordance with section 7.

(3) Upon conclusion of an investigation, the director shall provide a full report to the attorney general.

Sec. 21. (1) The commissioner of insurance may investigate, in the manner set forth in section 7, a person subject to Act No. 218 of the Public Acts of 1956, as amended, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, who the commissioner believes has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful under this act.

(2) When the commissioner requires the use of the subpoena power provided in this act, an application shall be made to the attorney general, who shall proceed to procure a subpoena on behalf of the commissioner in accordance with section 7.

(3) Upon conclusion of an investigation, the commissioner shall provide a full report to the attorney general.

Sec. 22. This act shall take effect April 1, 1977.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved .....

.....

Governor.